

## CHAPTER 13-03-13 AUTHORIZATIONS

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**13-03-13-01. Authority to invest in investment securities or instruments.** State credit unions may invest in investment securities or instruments offered by companies registered under the Investment Companies Act of 1940 in accordance with investment authorizations issued for federal credit unions by the national credit union administration, subject to the same limitations or restrictions, if any.

**History:** Effective March 1, 1988; amended effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

**13-03-13-02. Investments restricted.** Total investments authorized under section 13-03-13-01 are limited to an amount not more than ten percent of assets. Adjustments must be made on the last day of each quarter to the lower of cost or market. Notwithstanding federal regulations, those mutual funds offering "puts" and "calls" are eligible for purchase by state credit unions.

**History:** Effective March 1, 1988; amended effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

**13-03-13-03. Effective date of authority to invest.** The authority for state credit unions to invest in investment securities or instruments shall be the date the investments are effective for federal credit unions unless the board shall otherwise direct within ninety days of the board receiving notification of proposed adjustments.

**History:** Effective March 1, 1988; amended effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

**13-03-13-04. Authority to invest in credit union service organizations.**

State credit unions may invest in credit union service organizations subject to the limitation provided for in this chapter and subject to approval by order of the board.

**History:** Effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

**13-03-13-05. Definitions.** Unless the context otherwise requires, terms in this chapter have the following meanings:

1. "Affiliated" means those credit unions that have either invested in or made loans to a credit union service organization.
2. "Credit union service organization" means financial service organization created by a credit union or group of credit unions or a league service organization to provide services not available from credit unions themselves.
3. "Equity" means the total of regular reserves, investment valuation reserve, other reserves, and undivided earnings as reported on the most recent yearend call report.
4. "Immediate family member" means a spouse or other family member living in the same household.
5. "Officials or senior management employees" means members of the board of directors, supervisory committee, or credit committee, chief executive officer (typically this individual holds the title of president or treasurer/manager), any assistant chief executive officers (e.g., assistant president, vice president, or assistant treasurer/manager) and the chief financial officer (comptroller).

**History:** Effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

**13-03-13-06. Application.** An application to establish a credit union service organization must be submitted to the board in writing and must contain the following:

1. A full explanation and complete documentation of the proposed credit union service organization.
2. A listing of proposed management and their qualifications.
3. A proposed business plan with financial projections for at least three years.

4. Any additional information as requested by the board or commissioner.

Once an application is determined to be complete by the commissioner, it must be submitted to the board for consideration. The board shall issue an order to either approve or disapprove the application. Upon notice of disapproval, the applicant has fifteen days to petition for a hearing before the board.

**History:** Effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

**13-03-13-07. Hearing.** A public hearing by the board may be required on applications to invest in credit union service organizations whenever the board or commissioner determines that it is in the public interest to hold such a hearing or whenever a credit union or party requests an opportunity to be heard is granted. Notice of hearing on an application will be issued at least thirty days prior to the hearing on the application.

**History:** Effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

**13-03-13-08. Permissible services and activities.** A state credit union may invest upon approval by order of the board in those credit union service organizations that provide one or more of the following services and activities:

1. The credit union service organization can conduct the following services and activities without approval of the board, but subject to applicable state licensing requirements: credit card and debit card services; check cashing and wire transfers; internal audits for credit unions; automated teller machine services; electronic funds transfer services; accounting services; data processing; shared credit union branch (service center) operations; sale of repossessed collateral; management, development, sale or lease of fixed assets; sale, lease, or servicing of computer hardware or software; management and personnel training and support; payment item processing; locator services; marketing services; research services; record retention and storage; microfilm and microfiche services; alarm-monitoring and other security services; debt collection services; credit analysis; coin and currency services; provision of forms and supplies; income tax preparation; and provision of vehicle warranty programs.
2. The credit union service organization may not initiate the following services and activities after December 1, 1992, without approval of the board, and subject to applicable state licensing requirements: consumer mortgage loan origination; loan processing, servicing, and sales; financial planning and counseling; retirement counseling; investment counseling; securities brokerage services; estate planning; acting as administrator for prepaid legal service plans, developing,

and administering individual retirement account, Keogh, deferred compensation and other personnel benefit plans, trust services; acting as trustee, guardian, conservator, estate administrator, or in any other fiduciary capacity; real estate brokerage services; travel agency services; agency for sale of insurance; and personal property leasing.

3. The board may approve any service or activity which is not authorized in subsection 1 or 2, subject to approval by the national credit union administration.
4. The board in granting approval for a service or activity shall consider all relevant factors including:
  - a. Whether the credit union service organization management or staff possesses adequate expertise or skills to perform the service or activity; and
  - b. Whether the proposed activity or service is reasonably expected to be profitable.

**History:** Effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

**13-03-13-09. Limitations on investments in credit union service organizations.** The following limitations apply to state credit unions for investments in credit union service organizations:

1. A credit union may not invest in shares, stocks, or obligations of credit union service organizations in an amount exceeding ten percent of its equity. The board may waive this limitation for a credit union investment in a credit union service organization existing before December 1, 1992.
2. Credit unions may not make loans to a credit union service organization in which it is affiliated in an amount exceeding ten percent of its equity. North Dakota central credit union may make a loan to its credit union service corporation, subject to approval of the board.
3. Any credit union currently holding an investment in a credit union service organization shall apply to the board for approval to engage in any additional service or activity.

**History:** Effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

**13-03-13-10. Conflict of interest.** Individuals who serve as officials or senior management employees of an affiliated state credit union, and immediate family members of such individuals, may not receive any salary, commission,

investment income, or other income or compensation from a credit union service organization either directly or indirectly, or from any person being served through the credit union service organization. This provision does not prohibit an official or senior management employee of a state credit union from assisting in the operation of a credit union service organization, provided the individual is not compensated by the credit union service organization. Further, the credit union service organization may reimburse the state credit union for the services provided by the individual.

**History:** Effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-06-06

**13-03-13-11. Examinations.** A credit union shall allow the commissioner or the commissioner's examiner, at the commissioner's discretion, to inspect or examine all the books or records of the credit union service organization for the purpose of determining compliance with this chapter and to determine the value of the credit union's investment or loans.

**History:** Effective December 1, 1992.

**General Authority:** NDCC 6-01-04

**Law Implemented:** NDCC 6-01-04, 6-01-09, 6-06-06, 6-06-08